IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMONS FOR JUDGMENT NO.18 OF 2007
IN
SUMMARY SUIT NO.3000 OF 2006

Himatalal F. Joshi & Anr. ...Plaintiffs.
Vs.
M/s. Shanti Investments & Anr. ...Defendants.

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Mr.B. G. Wadhwa for the Plaintiffs.
Mr. A.A. Joshi i/b. Nivit Srivastava for the Defendants.

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CORAM : DR.D.Y.CHANDRACHUD, J.
20th March 2007.

P.C.:

The suit was instituted on a Bill of Exchange dared 25th September 2003 in the amount of Rs. 1.75 lakhs. In the affidavit in reply, the case that has been set up is that, the entire payment under the original Bill of Exchange was released to the Plaintiffs and the Plaintiffs are now seeking to recover the monies on the basis of a duplicate Bill of Exchange. It has been averred in in para 10 of the rejoinder, that the Bill of Exchange a copy of which is annexed at Exh.A to Plaint, was given to the Plaintiff in lieu of the original Bill of Exchange. Though it is sought to be urged across the Bar that the Bill of Exchange was misplaced and consequently a duplicate was furnished to the Plaintiff, that has not been pleaded

in para 10 of the reply. The entire suit is founded on a duplicate of an original Bill of Exchange. The defences raised in the reply raise triable issues which are required to be decided at the trial of the suit. Unconditional leave to defend the suit is granted to the Defendants. Written Statement to be filed within a period of 8 weeks from today. The Summons for Judgment is disposed of.

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